



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,996	05/22/2006	Ricardo Kolb Filho	04304020386-4/USO	7139
7278 7590 06/05/2009 DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770				
EXAMINER HANSEN, JAMES ORVILLE				
ART UNIT 3637		PAPER NUMBER		
MAIL DATE 06/05/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/564,996

**Applicant(s)**

FILHO ET AL.

**Examiner**

James O. Hansen

**Art Unit**

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "shelves" [claim 10] and "compartments" [claim 11] must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 1-2, the phrase "the internal dividing means" does not have a proper antecedent basis; in line 8, the phrase "that it comprises" is vague and indefinite since it is not clearly understood what element / device / structure the term "it" might actually define; in line 9, the phrase "spaced from other and produced through" is unclear since the portion "spaced from other" is confusing as presently worded {spaced from each other or space from one another ?}, while the portion reciting "and produced through" is confusing as presently worded since it is not readily known how the "holes" are *produced* through a wall. In claim 7, the phrase "in the interior of the latter" is unclear as presently worded since the element defined by the term "latter" may be interpreted differently by different readers {the actual element should be set forth}. Consequently, the remaining claims are rejected since they are dependent upon an indefinite claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson [US 2,141,892]. Wilson (figures 1-8) teaches of a mounting arrangement (fig. 1) for an internal dividing means in refrigerators and freezers, having a cabinet (refrigerator – see disclosure) formed by an inherent external box; at least one inherent internal box defining a respective refrigeration compartment (as is conventionally known in the art) provided with lateral walls (defined by (5)), and an inherent thermal insulator provided between the external box and the internal box, characterized in that the mounting arrangement comprises: at least two holes (4) horizontally spaced from one another and provided through a respective lateral wall of the internal box (note fig. 1 for example) and through part of the thickness of the adjacent portion of the thermal insulator (fig. 1); a tubular bushing (3) tightly fitted in each of the holes; and at least one support member (1) configured to support, laterally, an internal dividing means (2) of the cabinet and to incorporate at least one pin (6) to be fitted and axially removably retained in each of the tubular bushings, securing the support means against a respective lateral wall of the internal box at a height (horizontal rows of holes would be formed in order to mount multiple shelves) which is defined upon the provision of the respective holes in the already formed cabinet. As to claim 2, the tubular bushing comprises a front end

portion (right end portion – fig. 8), opened to the interior of the cabinet (fig. 4), and a median portion (middle portion – fig. 8) and a rear end portion (left end portion – fig. 8) which are positioned in the interior of the thermal insulator (fig. 4), the rear end portion presenting, internally, a diametrical widening (fig. 4 for example) in relation to the adjacent region of the median portion. As to claim 3, the interior of the median portion of the tubular bushing is slightly frusto-conical, widening towards the front end portion (note fig. 4). As to claim 4, the front end portion of the tubular bushing incorporates, externally, a peripheral flange (12) to be seated against the lateral wall of the cabinet.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Fisher [US 3,469,493]. Fisher (figures 1-12) teaches of a mounting arrangement (figs. 3, 4 for example) for an internal dividing means in refrigerators and freezers, having a cabinet (refrigerator – see disclosure) formed by an inherent external box; at least one inherent internal box defining a respective refrigeration compartment (as is conventionally known in the art) provided with lateral walls (defined by (16)), and an inherent thermal insulator provided between the external box and the internal box, characterized in that the mounting arrangement comprises: at least two holes (14) horizontally spaced from one another and provided through a respective lateral wall of the internal box (note fig. 1 for example) and through part of the thickness of the adjacent portion of the thermal insulator (fig. 4); a tubular bushing (12) tightly fitted in each of the holes; and at least one support member (18) configured to support, laterally, an internal dividing means (shelf – see disclosure) of the cabinet and to incorporate at least one pin (74) to be fitted and axially removably retained in each of the tubular bushings, securing the support

means against a respective lateral wall of the internal box at a height (horizontal rows of holes would be formed in order to mount multiple shelves) which is defined upon the provision of the respective holes in the already formed cabinet.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher. As to claim 2, Fisher teaches applicant's inventive claimed mounting arrangement as disclosed above, including the tubular bushing comprises a front end portion (left end portion – fig. 3), opened to the interior of the cabinet (fig. 3), and a median portion (middle portion – fig. 3) and a rear end portion (right end portion – fig. 3) which are positioned in the interior of the thermal insulator (fig. 3); but, Fisher does not show the rear end portion presenting, internally, a diametrical widening in relation to the adjacent region of the median portion. However, Fisher does show a diametrical widening in the median portion when the support member is mated with the bushing (fig. 4) for the purpose of maximizing the holding power [col. 4]. Accordingly, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the location of widening area since it has been held that the mere rearrangement of working parts of a device involves only routine skill in the art

and therefore will not distinguish the invention from the prior art in terms of patentability. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.); *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (the particular placement of a contact in a conductivity measuring device was held to be an obvious matter of design choice). As to claim 3, Fisher teaches that the interior of the median portion of the tubular bushing is slightly frusto-conical, widening towards the front end portion (note fig. 4). As to claim 4, Fisher teaches that the front end portion of the tubular bushing incorporates, externally, a peripheral flange (24) to be seated against the lateral wall of the cabinet. As to claim 5, Fisher teaches that the front end portion of the tubular bushing presents, externally, close to the peripheral flange, a frusto-conical portion (see fig. 4), tapering towards the peripheral flange and which has an extension slightly larger than the thickness of the internal box, the frusto-conical portion having its diameter larger than the diameter of the respective hole (see fig. 4) passing through the internal box. As to claim 6, Fisher teaches that the rear end portion of the tubular bushing is closed at (62). As to claim 7, Fisher teaches that each pin of a support member presents a tubular cross section, with an external contour which is similar to and slightly smaller than that of the internal cross section of the tubular bushing (see figures), and a free end portion (shown in fig. 1) which is resiliently deformable in the radial direction and tightly fittable inside the diametrical widening of the respective tubular bushing (fig. 4), axially locking the pin in



the interior of the bushing. As to claim 8, Fisher teaches that the free end portion of the pin is longitudinally split (note fig. 1).

10. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher in view of Kuhnle [US Patent 67,124]. Fisher teaches applicant's inventive claimed mounting arrangement as disclosed above, but does not show the support member as taking the form of a rail having a pair of pins. Kuhnle (figures 1-3) is cited as an evidence reference to show that it was known to utilize a shelf supporting rail (A) having a pair of pins (c) for the purpose of connecting the pins to a wall structure (fig. 3). Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the mounting arrangement of Fisher so as to incorporate an elongated support member having two posts instead of a support member having a single post in view of Kuhnle's teaching because this arrangement would allow for the manufacturing of the support members and posts to be combined into a single piece [see disclosure of Kuhnle] thereby reducing the parts needed to support the internal dividing means. As to claims 10 & 11, the internal dividing means may take the form of shelves ("shelf support") or compartments (i.e., a shelf that compartmentalizes an interior volume).

11. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson in view of Kuhnle [US Patent 67,124]. Wilson teaches applicant's inventive claimed mounting arrangement as disclosed above, but does not show the support member as taking the form of a rail having a pair of pins. Kuhnle (figures 1-3) is cited as an evidence reference to show that it was known to utilize a shelf supporting rail (A)

having a pair of pins (c) for the purpose of connecting the pins to a wall structure (fig. 3). Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the mounting arrangement of Wilson so as to incorporate an elongated support member having two posts instead of a support member having a single post in view of Kuhnle's teaching because this arrangement would allow for the manufacturing of the support members and posts to be combined into a single piece [see disclosure of Kuhnle] thereby reducing the parts needed to support the internal dividing means. As to claims 10 & 11, the internal dividing means may take the form of shelves (2) or compartments (i.e., a shelf that compartmentalizes an interior volume).

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jansen, Squire, Hamilton et al., and Taylor Jr. et al., describe mounting arrangements within a refrigerator / freezer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James O. Hansen/  
Primary Examiner, Art Unit 3637

JOH  
June 4, 2009